IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.24039-M of 2007
Date of Decision:- 06.12.2007

Darshan ....Petitioner(s)

through
Mr.Ashish Aggarwal, Advocate

vs.

State of Haryana ....Respondent(s)

through
Mr.Tarun Aggarwal, Sr. DAG, Haryana.
Mr.Rahul Rathore, Advocate for the complainant.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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1) Whether Reporters of the local papers may be allowed to see the judgment?
2) To be referred to the Reporters or not?
3) Whether the judgment should be reported in the Digest?

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SURYA KANT, J. (ORAL)

The prayer in this petition is to release the petitioner on regular bail in case F.I.R.No.18 dated 5.2.2007 under Sections 302/307/148/149 and 506 IPC, registered at Police Station Butana, District Karnal.

The above-stated F.I.R. has been registered on the statement of Biru Ram son of Sadhu Ram, who is stated to be an eye-witness of the occurrence.

As per the allegations contained in the F.I.R., a dispute arose between the two groups regarding the funds collected for construction of a community Chopal. One Surju was accused of misappropriating/incurring excess expenditure of Rs.11,000/- over the above-stated construction. The said dispute finally took an ugly turn when Suresh son of that Surju is alleged to have given a *Lathi* blow on the head of Ramesh, followed by

other injuries caused by Naresh son of Phool Singh, Sattu son of Bal Singh, Ram Chander son of Bal Singh, Dungar son of Surju and Baldev son of Surta.

As may be seen, the petitioner (Darshan son of Surju) has not been named in the F.I.R. Ramesh son of Phool Ram later on succumbed to the injuries suffered by him. Later on, the petitioner has also been implicated and has been attributed injury on the head of the deceased on the basis of a supplementary statement recorded under Section 161 Cr.P.C.

There is, however, no denial to the fact that there are other accused persons also who are named in the F.I.R. and are attributed head injuries to the deceased.

The petitioner was arrested on 10.2.2007 and is in custody since then.

Meanwhile, after presentation of challan and framing of charges, most of the vital prosecution witnesses especially the private witnesses, have been examined. The case is now fixed for the remaining prosecution evidence on 26.2.2008.

In view of the plea taken by the accused party, it appears that some defence evidence would also be led by them.

In the aforesaid circumstances, the conclusion of trial will take some time.

Since the petitioner has not been shown to be present at the time of the occurrence by the alleged eye-witness on whose statement the F.I.R. was registered, the petitioner's case is distinguishable from that of his co-accused.

For the reasons aforestated, however, without expressing any views on the merits of the case lest it should prejudice either of the parties, this petition is allowed. The petitioner is directed to be released on bail to the satisfaction of the Chief Judicial Magistrate, Karnal.

December 06, 2007 **(SURYA KANT)**
poonam **JUDGE**